

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 230

CASE NO. 76-20

August 10, 1978

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on March 7 and 28, 1977. At this hearing the Commission considered an application by Margaret D. Stadtler for an amendment to the Zoning Map of the District of Columbia. By Zoning Commission Order No. 165, dated June 28, 1977, the Zoning Commission approved a change of zoning from R-1-B to C-1 for the subject site. That decision was appealed to the D. C. Court of Appeals, which subsequently remanded the matter to the Zoning Commission for further consideration in light of Kopf vs. District of Columbia Alcoholic Beverage Control Board, 381 A.2d 1372 (1977). This order is therefore a substitute for Order No. 165, which is hereby rescinded.

FINDINGS OF FACT

1. The applicant is requesting a Map change from R-1-B to C-1 for Lots 42 and 823 in Square 1417, premises located at the southern corner of the intersection of MacArthur Boulevard and Arizona Avenue, N. W.
2. The proposed site comprises approximately 18,615 square feet, and is undeveloped.
3. The site is bordered on the north by MacArthur Boulevard, on the west by Arizona Avenue, on the south by five developed lots (Lots 41, 805, 829, 803 and 14) and on the east by two undeveloped lots (Lots 822 and 821).
4. The subject site is depressed below the grades of both MacArthur Boulevard and Arizona Avenue as follows: measured from the top of the concrete curb at MacArthur Boulevard to the rear of the property line, the site slopes towards Sherrier Place a maximum of nineteen feet and a minimum of fifteen feet; in addition, there is an immediate "drop-off" of approximately thirteen to fifteen feet from the public right-of-way along

MacArthur Boulevard to the property line of the subject property (Lot 42) and a similar "drop-off" of approximately thirteen to six feet from the right-of-way along Arizona Avenue to the property line of the subject property.

5. The site is located on, and served by, two major arterials.

6. The north side of MacArthur Boulevard is zoned C-1 from Dana Place to Arizona Avenue, across the street from the subject property. The south side of MacArthur Boulevard is zoned C-1 from Dana Place to Edmunds Place, less than one block from the subject property.

7. There are no vacant lots in the existing C-1 zoning district described above.

8. The proposed rezoning to C-1 will enable the National Permanent Federal Savings and Loan Association to relocate its offices now located across MacArthur Boulevard in the Comnet Building to the subject site. The Association wishes to erect a new building for the Savings and Loan containing approximately 5,500 square feet of service and office space, to occupy approximately thirty-nine per cent of the site.

9. The Association has been providing a variety of financial services to the neighborhood residents at the existing location across MacArthur Boulevard. This activity in the past has not had an adverse effect on the surrounding residential area.

10. The intersection of MacArthur Boulevard and Arizona Avenue has a 24-hour average weekday volume of 20,000 vehicles and is currently operating twenty to thirty per cent below traffic capacity. The proposed development would have a negligible impact on the street capacity.

11. The written recommendation of Advisory Neighborhood Commission 3-D was that the application be denied for the following reasons:

- a. There is in the area land already zoned C-1 which is not being used for commercial purposes. This land should be developed commercially before additional land is rezoned for commercial use. There are ample neighborhood shopping and service facilities in the existing C-1 zone.
- b. The applicant's claim that the land is not suitable for residential development should be rejected, because

the site is similar in topography and location to other sites in the neighborhood upon which new residential construction is being undertaken. The rezoning would be spot zoning.

- c. The property could be developed to the maximum level allowed under C-1 zoning, which would contribute to existing parking difficulties and traffic congestion in the area. Even the bank as proposed could generate traffic and parking problems.
 - d. The construction of a building in the C-1 District would overwhelm the single family houses on Sherrier Place. In addition, C-1 development is, generally, a threat to the stability of the residential neighborhood.
 - e. The rezoning of the tract would increase existing pressure on the remaining houses on the block and the neighborhood to be rezoned to higher density.
 - f. The rezoning would allow commercial uses to intrude into a square which is presently entirely residential.
12. As to the issues and concerns of the ANC, based on the record before it, the Commission finds the following:
- a. Although there is land zoned C-1 not presently used for commercial purposes, it is not reasonable to expect that such land would be used for the retail, service and office uses contemplated by the application. First, the existing C-1 property is not vacant but is improved with occupied semi-detached dwellings. Second, such properties are located at a much higher level than the street. In addition, although evidence was received as to the specific proposed use at the site, at the center of this case is the issue of what zone classification is reasonable for the site, not the establishment of a location for the proposed use. Nor is this case predicated on a claimed need for additional neighborhood shopping and services. The existence of commercially zoned land which is not commercially developed and the adequacy of neighborhood services and shops do not outweigh the strong showing in this case that the C-1 classification is appropriate for the site.
 - b. It is not reasonable to expect that the site will be developed with single family detached houses permitted in the R-1-B District for several reasons. First, the

site is located at the intersection of two major arterial streets and is across the street from commercial uses. Second, the topography of the site, including the immediate "drop-off" adjacent to both street frontages, makes it unsuitable for detached housing requiring extensive fill on both sides. Third, the topography would add significantly to the cost of developing houses on the site, which would price them above the reasonable market level for residences at a site which suffers from the impacts of the adjoining arterial streets and commercial uses. None of the nearby locations where expensive detached homes are under construction have been shown to be similarly impacted. Although one site is also on Arizona Avenue, that site is north of MacArthur Boulevard. The subject site is south of MacArthur Boulevard, where Arizona Avenue serves to connect MacArthur Boulevard and Canal Road and bears heavy and congested rush hour traffic. The zoning rationale of the requested rezoning is to eliminate an overly-restrictive classification which has caused the land to remain undeveloped and to establish a reasonable classification which will cause the land to be put to use. The benefit to the land-owner is an incident to the rezoning. It is not the Commission's reason for the rezoning.

- c. The maximum level of development on the site under C-1 would be approximately 18,600 square feet of gross floor area. The expert testimony of the applicant's traffic consultant and the Department of Transportation establish that there is available traffic capacity at the Arizona and MacArthur intersection, and that the site can be serviced, provided that left turns onto or off of Arizona Avenue are prohibited. The overall record demonstrates that neither the proposed use nor full C-1 development would result in substantial additional traffic on Sherrier Place or other residential streets. The overall increase in traffic which could result from full C-1 development would be within the capacity of the arterial and residential streets in the neighborhood. The Commission is not persuaded that there will be any traffic problem caused by C-1 development which cannot be satisfactorily managed by available traffic regulatory devices or which is sufficient to outweigh the showing that C-1 zoning, rather than R-1-B zoning, is appropriate for the site.
- d. In the R-1-B District, a building can occupy up to

forty per cent of the lot for three stories, for an effective floor area ratio (FAR) of 1.2. The height limit is forty feet. It must also have eight foot side yards and a twenty-five foot rear yard. In the C-1 District, a building could occupy sixty per cent of the lot and have three stories subject to the FAR limitation, and must have a rear yard of twenty feet. The height limit is forty feet. The FAR limit of 1.0 further limits the bulk of development. The amount of building bulk permitted under the two districts is thus essentially the same. For this reason, the impact of any building permitted under the C-1 regulations would be approximately equivalent to that of any building permitted under the R-1-B regulations. The C-1 zone is intended to have a minimum impact on adjacent residential areas. The record does not sustain the general fear that the rezoning would threaten the demonstrated stability of the neighborhood.

- e. Each application must be judged on its own merits. The rezoning of the specific property in question was the only matter before the Commission. The Commission has made no judgement about the appropriateness of rezoning any other property, which of necessity, will have different circumstances regarding it. The characteristics of the site heavily favor C-1 zoning. That reasonable zoning should not be withheld because of an expressed concern that the Commission might unreasonably rezone other sites in the future. The Commission is unable to conclude that the instant rezoning will result in the rezoning of other sites. The record clearly shows that the residential neighborhood surrounding the site is stable. In this connection, the Commission takes notice, for example, of its decision in Zoning Commission Case No. 76-17, in the same neighborhood. In that case, in Order No. 167, the Commission established the zone boundary line at Sherrier Place "to protect adjoining properties."
- f. The rezoning of the subject property allows a vacant corner of a square to be put to some reasonable use. The Commission again notes that this property is located at the intersection of two major arterial streets, unlike any other property in the square. Additionally, under the overall scheme of the Zoning Regulations a record square is not generally intended to establish the zone district boundary lines.

13. The National Capital Planning Commission reported that the Zoning Map Amendment would not be inconsistent with the Comprehensive Plan for the National Capital and would not have a negative impact on the interests or functions of the Federal establishment.

CONCLUSIONS OF LAW

1. Detached single family residential development under R-1-B zoning is infeasible and unlikely to be developed due to the following site conditions:

- a. Location at the intersection of two heavily traveled arterial roads,
- b. Location directly across the street from commercial development, and
- c. The unusually high site development costs, relating to the topography of the site, necessary for R-1-B development.

2. Commercial uses within the C-1 District regulations would be compatible with the existing neighborhood commercial development and would not have an adverse effect on the surrounding residential development.

3. This rezoning will promote orderly development in conformity with the entirety of the District of Columbia Zoning Plan as embodied in the Zoning Regulations and Map of the District of Columbia.

4. This action is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat. 797) by furthering the general public welfare and will serve to stabilize and improve the area.

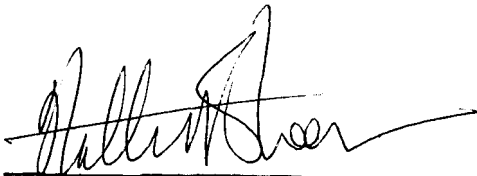
5. Because C-1 zoning is appropriate to the character of the site and is consistent with the overall plan and comprehensive scheme of the Zoning Regulations, the rezoning does not constitute unlawful "spot zoning."

6. The Commission has considered the issues and concerns of the ANC, and concludes that the preponderance of the evidence supports the rezoning of this property from R-1-B to C-1.

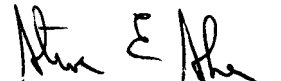
DECISION

In consideration of the Findings and Conclusions herein, the Commission Orders ADOPTION of the following amendment to the Zoning Map:

Change from R-1-B to C-1, Lots 42 and 823 in Square 1417, at the intersection of MacArthur Boulevard and Arizona Avenue, N. W.



WALTER B. LEWIS
Chairman



STEVEN E. SHER
Executive Director

This order was adopted by the Zoning Commission at its public meeting held on August 10, 1978 by a vote of 3-0 (Theodore F. Mariani, George M. White and Walter B. Lewis to adopt, Ruby B. McZier and John G. Parsons not present, not voting).

In accordance with Section 2.61 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, the amendment to the Zoning Map is effective on
16 AUG 1978.